

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS

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| Applicant(s) | Koziy | APPEAL BRIEF |
| Serial No. | 10/017,653 | |
| Filing Date | 12/12/2001 | |
| Confirmation No. | 9785 | |
| Examiner Name | Hyun, Soon D. | |
| Group Art Unit | 2616 | |
| Attorney Docket No. | 100.407US02 | |
| Title: SYSTEM AND METHOD FOR ELECTRONICALLY IDENTIFYING CONNECTIONS OF A CROSS-CONNECT SYSTEM | | |

1. Introduction

On December 28, 2007, Appellant filed a notice of appeal from the final rejection of the claims 14-16 and 20-45 set forth in the Final Office Action mailed October 1, 2007. This Appeal Brief is accompanied by a fee in the amount of \$510.00 as required under 37 C.F.R. §41.20(b)(2).

2. Real Party in Interest

The real party in interest in the above-captioned application is the assignee, ADC Telecommunications, Inc.

3. Related Appeals and Interferences

There are no appeals or interferences known to Appellants which will have a bearing on the Board's decision in the present appeal.

4. Status of the Claims

Claims 14-45 are pending in the application.

Claims 1-13 were cancelled in Appellant's November 2, 2006 response to the restriction requirement set forth in the October 5, 2006 office action.

In the Final Office Action, claims 14-21, 23-28, and 33-42 were rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 5,821,510 (“Cohen”) and claims 22, 29-32, and 43-45 were rejected under 35 U.S.C. 103(a) as being unpatentable over Cohen.

In the Advisory Action mailed 12/18/2007, the Examiner objected to claims 17-19 as depending from a rejected base claim but indicated that the claims would be allowable if rewritten in independent form. As a result, claims 14-16 and claims 20-45 stand rejected and claims 17-19 stand objected to as depending from a rejected base claim.

The final rejections of claims 14-16 and 20-45 are the subject of this appeal.

5. Status of Amendments

No amendments have been filed subsequent to the Final Office Action.

6. Summary of Claimed Subject Matter

Pursuant to 37 C.F.R. §41.37(c)(1)(v), Appellant provides the following concise explanation of the subject matter defined in each independent claim with reference to the specification by page and line number and to the drawings by reference number. Appellant submits that the citations to the specification and drawings are not intended to be exhaustive and that other support for the various claims may also be found throughout the specification and drawings.

A. Claim 14

Claim 14 is directed to a cross-connect system. The system includes a plurality of termination elements (102, 104 of FIG. 6; 132, 134 shown in FIGS. 12-13) through which cross-connections can be made. See, e.g., page 24, lines 5 – 12. The system also includes a first communication medium (REAR PERMANENT EQUIPMENT CONNECTIONS shown in FIGS. 6 and 12 that connect to connections 124 of FIG. 8; conductors 101 of FIG. 6 that connect to TIP and RING (OUT TN/RN and IN RN/TN) connections of 124 shown in FIG. 8) that communicatively couples cross-connected termination elements of the plurality of termination elements, the first communication medium communicating user information signals between cross-connected termination elements of the plurality of termination elements. See, e.g., page 20, lines 3-15; page 23, lines 9-23. A second communication medium (TRACER BUS 133

shown in FIGS. 8, 10, and 11) separate from the first communication medium such that the user information signals are communicated only over the first communication medium, the second communication medium communicating connection information signals. See, e.g., page 15, line 13 – page 16, line 10. The system includes a processor (included in controller 136 shown in FIGS. 10 and 12) coupled to the first and second communication mediums. See, e.g., page 24, line 5 – page 25, line 26, page 26, lines 10-14. The processor coordinating the communication of the connection information signals via the second communication medium and acquisition of connection information with regard to the cross-connected termination elements. See, e.g., page 24, lines 5-22.

B. Claim 33

Claim 4 is directed to a method of acquiring connection information for termination elements of a cross-connect system. The method include communicating, via a first communication medium, user information signals between cross-connected termination elements of the cross-connect system. See, e.g., FIGS 6, 8, and 12; page 20, lines 3-15; page 23, lines 9-23. The method also includes communicating, via a second communication medium separate from the first communication medium, connection information signals, such that the user information signals are communicated only over the first communication medium. See, e.g., FIGS. 8, 10, and 11; page 15, line 13 – page 16, line 10.

The method also includes acquiring connection information with regard to the cross-connected termination elements of the cross-connect system using the connection information signals. See, e.g., page 24, lines 5-22.

7. Grounds of Rejection to be Reviewed on Appeal

The first issue presented in this Appeal is whether the Examiner erred in rejecting claims 14-16, 20-21, 23-28, and 33-42 under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 5,821,510 (“Cohen”).

The second issue presented in this Appeal is whether the Examiner erred in rejecting and claims 22, 29-32, and 43-45 were rejected under 35 U.S.C. 103(a) as being unpatentable over Cohen.

8. Arguments**A. Rejection of claims under 35 U.S.C. §102(e).****i. The Applicable Law**

35 U.S.C. § 102 provides in relevant part:

A person shall be entitled to a patent unless-

(e) the invention was described in - (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for the purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language,

A claim is anticipated under 35 U.S.C. § 102 only if each and every element as set forth in the claim is found, either expressly or inherently, in a single prior art reference. *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ 2d 1051,1053 (Fed. Cir. 1987). “The identical invention must be shown in as complete detail as is contained in the...claim.” *Richardson v. Suzuki Motor Co.* 868 F.2d 1226, 1236, 9 USPQ 2d 1913, 1920 (Fed. Cir. 1989). The elements must be arranged as required by the claim, but identical terminology is not required. *In re Bond*, 910 F. 2d 831, 15 USPQ 2d 1566 (Fed. Cir. 1990).

Anticipation focuses on whether a claim reads on a product or process disclosed in a prior art reference, not on what the reference broadly teaches. *Kalman v. Kimberly-Clark Corp.*, 713 F.2d 760, 218 USPQ 781 (Fed. Cir. 1983). To anticipate a claim, a reference must disclose every element of the challenged claim and enable one skilled in the art to make the anticipating subject matter. *PPG Industries, Inc. v. Guardian Industries Corp.*, 75 F.3d 1558, 37 USPQ 2d 1618 (Fed Cir. 1996).

ii. Rejection of claims 14-21, 23-28, and 33-42

Claims 14-21, 23-28, and 33-42 were rejected under 35 U.S.C. 102(e) as being anticipated

by U.S. Patent No. 5,821,510 (“Cohen”)

Appellant respectfully submits that the Examiner erred in making this rejection.

a. Claim 14

Claim 14 of the present application recites, in relevant part, “a processor coupled to the first and second communication mediums, the processor coordinating the communication of the connection information signals via the second communication medium and acquisition of connection information with regard to the cross-connected termination elements.”

With respect to claim 14, the Examiner took the position that processor 17 in Fig. 1A of Cohen discloses “a processor coupled to the first and second communication mediums.” The Examiner also took the position that “a jumper 8 in Fig. 4” teaches “a first communication medium communicatively coupling cross-connected termination elements of the plurality of termination elements.”

Nothing in Cohen teaches or suggests that processor 17 in Fig. 1A is coupled to the jumper 8. Moreover, nowhere does Cohen teach “the processor coordinating the communication of the connection information signals via the second communication medium” as recited in claim 14. Indeed, Cohen relates to a fundamentally different approach in which a hand-held optical scanner is used to scan barcodes and display that information for a user.

In response to this argument, the Examiner took the position that:

With reference to col. 6, line 41- col. 7, line 60, the processor 17 controls the storing of the connection information associated with jumper 8. Therefore, the processor 17 is coupled to the jumper 8. Since the definition of the term "coupled" is not specifically recited in the claim, Examiner interprets the term "coupled" in the claim as broad as possible, i.e., the "coupled" in the claim is interpreted as "associated" in the reference.

Page 6, Final Office Action.

It is respectfully submitted that even under the interpretation of the term “coupled” proposed by the Examiner (which Applicant does not necessarily concede is correct), Cohen still does not teach or suggest that processor 17 in Fig. 1A is coupled to the jumper 8. In this regard it is noted that the processor 17 of Fig. 1A is not “associated with” the jumper 8 but instead the processor 17 “associates” the jumper 8 with the receptacle 6 in which it is inserted. That is, the

jumper 8 is associated with the receptacle 6, not the processor 17.

Claims 16 and 20-21 and 23-28 depend from claim 14 and, therefore, at least the arguments set forth above with respect to claim 14 apply to these claims as well.

b. Claim 33

Claim 33 recites, in relevant part, “communicating, via a second communication medium separate from the first communication medium, connection information signals *between the cross-connected termination elements of the cross-connect system.*”

With respect to Cohen, the medium connecting a hand-held optical scanner and a receiver interface, discussed in Cohen, does not teach or suggest “communicating, via a second communication medium ..., connection information signals between the cross-connected termination elements of the cross-connect system.”

The Examiner responded to this argument by referring to the Examiner’s response provided in the Final Office Action with respect to claim 17. It is noted, however, that the Examiner subsequently conceded in the Advisory Action that that position, as it pertains to claim 17, was not correct. The Advisory Action is devoid of any explanation as to why the Examiner’s response is valid with respect to claim 33 but not with respect to claim 17.

Claims 34-42 depend from claim 33 and, therefore, at least the arguments set forth above with respect to claim 33 apply to these claims as well.

Accordingly, it is respectfully submitted that the Examiner erred in rejecting claims 14-16, 20-21, 23-28, and 33-42 under 35 U.S.C. 102(e) as being anticipated by Cohen. Reversal of the rejection of these claims is respectfully requested.

B. Rejection of claims under 35 U.S.C. §103(a).

i. The Applicable Law

35 U.S.C. § 103 provides in relevant part:

Conditions for patentability; non-obvious subject matter.

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject

matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

To establish a case of *prima facie* obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based in the applicant's disclosure. *In re vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir 1991). MPEP § 2143 - § 2143.03.

The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. MPEP Section 2143.01 *citing In re Mills*, 916 F.2d 680, 16 USPQ2d 1430 (Fed. Cir. 1990) (Claims were directed to an apparatus for producing an aerated cementitious composition by drawing air into the cementitious composition by driving the output pump at a capacity greater than the feed rate. The prior art reference taught that the feed means can be run at a variable speed, however the court found that this does not require that the output pump be run at the claimed speed so that air is drawn into the mixing chamber and is entrained in the ingredients during operation. Although a prior art device "may be capable of being modified to run the way the apparatus is claimed, there must be a suggestion or motivation in the reference to do so." 916 F.2d at 682, 16 USPQ2d at 1432.).

ii. Rejection of claim 33

Claims 22, 29-32, and 43-45 were rejected under 35 USC § 103(a) as being unpatentable over Cohen.

Claims 22 and 29-32 depend from claim 14 and, thus, at least the arguments set forth above with respect to claim 14 apply to these claims as well.

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Claims 43-45 depend from claim 33 and, thus at least the arguments set forth above with respect to claim 33 apply to these claims as well.

Accordingly, it is respectfully submitted that the Examiner erred in rejecting and claims 22, 29-32, and 43-45 were rejected under 35 U.S.C. 103(a) as being unpatentable over Cohen. Reversal of the rejection of these claims is respectfully requested.

Respectfully submitted,

Date: 2008-02-28

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CLAIMS APPENDIX

14. A cross-connect system, comprising:

a plurality of termination elements through which cross-connections can be made; a first communication medium communicatively coupling cross-connected termination elements of the plurality of termination elements, the first communication medium communicating user information signals between cross-connected termination elements of the plurality of termination elements;

a second communication medium separate from the first communication medium such that the user information signals are communicated only over the first communication medium, the second communication medium communicating connection information signals; and

a processor coupled to the first and second communication mediums, the processor coordinating the communication of the connection information signals via the second communication medium and acquisition of connection information with regard to the cross-connected termination elements.

15. The system of claim 14, wherein the first communication medium comprises an optical communication medium.

16. The system of claim 14, wherein the second communication medium comprises an electrical communication medium.

20. The system of claim 14, wherein the processor is coupled to memory, the memory storing the connection information.

21. The system of claim 14, wherein the processor is coupled to memory and a user interface, the user interface cooperating with one or both of the processor and memory to display connection information.

22. The system of claim 14, wherein the processor is coupled to memory and a user interface, the user interface cooperating with one or both of the processor and memory to control at least one annunciator of selected ones of the plurality of termination elements.

23. The system of claim 14, wherein the processor is communicatively coupled to a user interface, the user interface situated geographically remote from the processor.

24. The system of claim 14, wherein the processor is communicatively coupled to a user interface, the user interface situated geographically remote from the plurality of termination elements.

25. The system of claim 14, wherein the processor is communicatively coupled to a hand-held user interface.

26. The system of claim 14, wherein the processor is coupled to memory, the connection information stored in the memory as a database of connection information.

27. The system of claim 14, wherein the processor is coupled to a user interface comprising a display, the user interface cooperating with the processor to display a graphical depiction of selected portions of the cross-connect system.

28. The system of claim 14, wherein the processor is coupled to a user interface comprising a display, the user interface cooperating with the processor to display a graphical depiction of selected ones of the plurality of termination elements.

29. The system of claim 14, wherein the processor is coupled to a user interface, the user interface cooperating with the processor to control one or more annunciators of selected ones of the plurality of termination elements.

30. The system of claim 14, wherein the processor is coupled to a user interface and each of the termination elements comprises one or more light emitting annunciators, the user interface cooperating with the processor to control the light emitting annunciators of selected ones of the plurality of termination elements.

31. The system of claim 14, wherein the processor is coupled to a user interface, the user interface cooperating with the processor to control one or more annunciators of selected ones of the plurality of termination elements for guiding a technician when configuring the cross-connect system.

32. The system of claim 14, wherein the processor is coupled to a user interface, the user interface cooperating with the processor to control one or more annunciators of selected ones of the plurality of termination elements in response to execution of a pre-programmed sequence of patch operations to be performed by a technician.

33. A method of acquiring connection information for termination elements of a cross-connect system, comprising:

communicating, via a first communication medium, user information signals between cross-connected termination elements of the cross-connect system;

communicating, via a second communication medium separate from the first communication medium, connection information signals between the cross-connected termination elements of the cross-connect system, such that the user information signals are communicated only over the first communication medium; and

acquiring connection information with regard to the cross-connected termination elements of the cross-connect system using the connection information signals.

34. The method of claim 33, wherein communicating the user information signals comprises optically communicating the user information signals via the first communication medium.

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35. The method of claim 33, wherein communicating the connection information signals comprises electrically communicating the connection information signals via the second communication medium.

36. The method of claim 33, further comprising communicating user information signals between a first termination element and a second termination element via a first patch pathway, and communicating connection information signals to the first and second termination elements via a second patch pathway.

37. The method of claim 36, wherein communicating the user information signals via the first patch pathway comprises optically communicating the user information signals via the first patch pathway.

38. The method of claim 36, wherein communicating the connection information signals via the second patch pathway comprises electrically communicating the connection information signals via the second patch pathway.

39. The method of claim 33, further comprising storing the connection information as a database of connection information.

40. The method of claim 39, further comprising remotely accessing the database of connection information.

41. The method of claim 33, further comprising displaying connection information.

42. The method of claim 33, further comprising graphically displaying connection information for a selected portion of the cross-connect system.

43. The method of claim 33, further comprising controlling at least one annunciator of selected ones of the termination elements.

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44. The method of claim 33, further comprising controlling one or more light emitting annunciators of selected ones of the termination elements for guiding a technician when configuring the cross-connect system.

45. The method of claim 33, further comprising controlling one or more annunciators of selected ones of the termination elements in response to execution of a pre-programmed sequence of patch operations to be performed by a technician.

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EVIDENCE APPENDIX

There is nothing to present in the Evidence Appendix.

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RELATED PROCEEDINGS APPENDIX

There is nothing to present in the Related Proceedings Appendix.